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REMARKS

This Response is submitted in reply to the Final Office Action mailed 29 MARCH 2004. Withdrawal of the rejection and reconsideration with an eye toward allowance is respectfully requested. A complete listing of pending claims is provided above.

Claim Status

Claims 24-42 were examined in the Final Office Action under reply and stand rejected. Claims 1-9 were previously withdrawn and claims 10-23 were previously cancelled.

Claim Rejection – 35 U.S.C. §103 (a)

Claims 24-42 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bamdad *et al.* (U.S. Patent Number 6,541,617 B1).

Applicants respectfully submit that U.S. Patent No. 6,541,617 is disqualified as prior art under 35 U.S.C. §103(c). Section 103 states in relevant part:

Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

STATEMENT OF COMMON OWNERSHIP

Applicants submit that:

1. The present application (U.S. Serial Number 09/760,384) was filed 11 JANUARY 2001, prior to the 01 APRIL 2003 issue date of U.S. Patent No. 6,541,617. Therefore, U.S. Patent No. 6,541,617 may qualify as prior art only under 102(e); and

2. Application U.S. Serial Number 09/760,384 and U.S. Patent No. 6,541,617 were at the time of the invention of Application 09/760,384 was made, owned by Clinical Micro Sensors Incorporated.

As evidence of common ownership attached hereto are:

EXHIBIT A, a copy of Notice of Recordation of Assignment Document for the present application U.S. Serial Number 09/760,384 from the inventors to Clinical Micro Sensors Incorporated; and

EXHIBIT B, a copy of Notice of Recordation of Assignment Document for U.S. Serial Number 09/428,155 (now U.S. Patent No. 6,541,617) from the inventors to Clinical Micro Sensors Incorporated.

Applicants respectfully submit that the rejection of Claims 24-42 under 35 U.S.C. §103(a) should be withdrawn.

CONCLUSION

Applicants submit the claims are in condition for allowance, and notification of such is respectfully requested. If after review, the Examiner feels there are further unresolved issues, the Examiner is invited to call the undersigned at (415) 781-1989.

Respectfully submitted,
DORSEY & WHITNEY LLP



By _____
Jennifer M. Lane, Patent Agent, Reg. No. 51,916
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EXHIBIT A

MARCH 23, 2002

PTAS

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RECORDATION DATE: 01/18/2002

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BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

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DOC DATE: 12/10/2001

ASSIGNOR:

BLACKBURN, GARY

DOC DATE: 12/10/2001

ASSIGNOR:

KAYYEM, JON F.

DOC DATE: 12/10/2001

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O'CONNOR, STEPHEN D.

DOC DATE: 12/18/2001

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DOC DATE: 12/13/2001

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DOC DATE: 12/10/2001

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DOC DATE: 12/10/2001

012507/0900 PAGE 2

ASSIGNEE:

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SERIAL NUMBER: 09760384
PATENT NUMBER:

FILING DATE: 01/11/2001
ISSUE DATE:

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RECORDATION DATE: 03/20/2000

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BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

BAMDAD, CYNTHIA C.

DOC DATE: 03/15/2000

ASSIGNOR:

MUCIC, ROBERT C.

DOC DATE: 03/15/2000

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SERIAL NUMBER: 09428155

FILING DATE: 10/27/1999

PATENT NUMBER:

ISSUE DATE:

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